IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.34254 of 1998

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Dated: September 19, 2007

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Between:

Mandavalli Venkateswara Rao, S/o. Yerakaiah Setty,
Aged 50 years, R/o. Saluru, Vizianagaram District.

… Petitioner

And

A.P. Cooperative Tribunal, Vijayawada,
Krishna District, rep. by its Secretary, and others.

… Respondents

Order:

This writ petition has been filed questioning the order dated 14-09-1998, passed by the first respondent, A.P. Cooperative Tribunal, Vijayawada in O.A.No.86/95, confirming the order dated 19-01-1990, passed by the third respondent, Special Cadre Deputy Registrar of Cooperative Societies (Enforcement Officer) A.P. State Cooperative Marketing Federation (MARKFED) Hyderabad in A.R.C.No.37/88-89.

Petitioner entered into an agreement with the second

respondent, MARKFED, to act as its Agent for the purpose of distribution of agricultural inputs, including fertilizers. In terms of the agreement, petitioner was supplying fertilizers and was due to the second respondent a sum of Rs.41,822.48 ps. As such, second respondent filed Arbitration Case No.37/88-89 before the third respondent for recovery of the said amount with interest. Third respondent, by his order dated

19-01-1990, while allowing the said arbitration case, directed the petitioner to pay an amount of Rs.41,822.48 ps., with interest of Rs.29,241.60 ps. upto 25-02-1989 and also future interest. Aggrieved by the same, petitioner preferred an appeal before the first respondent, A.P. Cooperative Tribunal, Vijayawada under Section 76(1) of the Andhra Pradesh Cooperative Societies Act, 1964 ('the Act' for brevity). The first respondent-Tribunal dismissed the appeal on the ground that petitioner should have approached the Tribunal at Hyderabad and also on the ground that the petitioner, having moved an application before the Arbitrator under Order IX Rule 13 of the Code of Civil Procedure, 1908 is not entitled for any relief in the appeal.

Sri O. Manoher Reddy, learned counsel for the petitioner, submits that as much as cause of action arose in the limits of the first respondent-Tribunal in Krishna District, the appeal preferred by the petitioner before it, should have been entertained. The said submission of the learned counsel cannot be accepted for the reason that the order dated 19-01-1990 was passed by the third respondent, Special Cadre Deputy Registrar of Cooperative Societies (Enforcement Officer) A.P. State Cooperative Marketing Federation, Hyderabad and the second respondent-Federation is also headquartered at Hyderabad. It is to be seen that under Section 75 of the Act, Government is empowered to constitute, by notification, as

many Tribunals for such area or areas as may be specified in the notification.

As much as the territorial jurisdiction of the appellate Tribunals is based on the notified areas, and the order dated 19-01-1990 was passed by the third respondent, Special Cadre Deputy Registrar of Cooperative Societies (Enforcement Officer) A.P. State Cooperative Marketing Federation, Hyderabad, appeal lies only to the A.P. Cooperative Tribunal at Hyderabad. Hence, I do not find any illegality in the order dated

14-09-1998, passed by the first respondent, A.P. Cooperative Tribunal, Vijayawada in O.A.No.86/95, rejecting the appeal of the petitioner on the ground of territorial jurisdiction. However, having held that the appeal itself is not maintainable, the first respondent-Tribunal ought not to have gone into the merits of the appeal.

In the circumstances, confirming the order dated 19-01-1990, passed by the third respondent, I dispose of the writ petition permitting the petitioner to prefer an appeal before the A.P. Cooperative Tribunal, Hyderabad within a period of eight weeks from the date of receipt of this order, if he is aggrieved by the order of the third respondent dated 19-01-1990. If any such appeal is filed, the A.P. Cooperative Tribunal, Hyderabad shall consider the same and dispose it of on merits within a period of eight weeks from the date of receipt of this order, without raising any objection on the ground of limitation, and, uninfluenced by any of the observations made by the A.P. Cooperative Tribunal, Vijayawada in the order dated 14-09-1998, passed in O.A.No.86 of 1995. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

September 19, 2007
MRR